

### **REMARKS**

Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested

#### **Status of the Claims**

Claims 10, 11, 13 and 16-39 are presented. Claims 10, 28, 31 and 34 are amended to now require the preferred range of 70-80% for the wax ester. Support is found in the specification on page 7, lines 5-12. In addition, claims 13 and 21 are amended to correct claim dependency, as discussed below. Support is found throughout the specification. New claims 36 - 39 are supported in the present specification at pages 25 - 27. No claims are cancelled.

No new matter has been introduced.

#### **Summary of the Invention as Claimed**

As currently amended, the present claims are directed to processes for making paper substrates having a soft feel. The processes comprise, in addition to providing a paper substrate, the step of providing an emulsion consisting essentially of (i) a polyol poly-12-hydroxystearate, (ii) 70-80% of a wax ester, and (iii) a wax. In certain embodiments, the wax ester is an unsaturated wax ester (see claim 31, for example). In another embodiment the preferred polyol poly-12-hydroxystearate is polyglycerol poly-12-hydroxystearate (claims 11, 29, 32 and 35 - 39).

#### **Rejections under 35 U.S.C. § 112, second paragraph**

Claims 10-11, 13 and 16-35 as previously presented were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with regard to the term "quickly". The Examiner stated that the relative term "quickly" was not defined by either the claim or the specification. In response, this term has been removed from the claims as presently amended.

Previously presented claims 13 and 21 were cited as improper due to dependence on previously cancelled claims. In response, the dependency of claims 13 and 21 has been corrected, as presently amended.

The Examiner is therefore requested to withdraw the rejections on the basis of 35 USC Section 112.

**Rejections under 35 U.S.C. § 103(a)**

Previously pending claims 10-11, 13 and 16-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over de Haut et al. (US 6,207,014; "de Haut"). Applicants respectfully traverse this rejection.

In one embodiment, de Haut discloses a method of using a softening lotion for treating paper fibers or articles. The lotion of de Haut comprises one or more saturated linear fatty alcohols having at least 16 carbon atoms. Importantly, de Haut teaches that these linear fatty alcohol components are an "essential feature" of the invention described therein. (Col. 5, lines 43 -- 48). Thus, while the patent describes a softening lotion which can be used for treating natural fibers, synthetic fibers and their mixtures, the patent also teaches that the advantages described for the use of such a lotion are only achieved with the use of the "essential" linear fatty alcohol ingredient.

In addition, de Haut teaches as an optional ingredient "one or more nonionic and/or amphoteric emulsifiers." (Col 5, lines 59 – 67). Among the literally thousands of possible "optional" emulsifiers, de Haut mentions the possibility of utilizing polyglycerol poly-12-hydroxystearate. (Col 7, lines 60 - 61).

Applicants respectfully submit that there is nothing in the prior art, including de Haut, to suggest the substantial and significant unexpected results achieved in accordance with the subject matter now claimed by applicants. More particularly, applicants have discovered the ability to make highly advantageous and desirable products when an emulsion is used comprising a particular combination of three specific components, namely, from about 5% to about 25%

by weight of a polyol poly-12-hydroxystearate together with from about 70 to about 80% of a wax ester and from about 5% to about 25% by weight of wax.

Among the surprising and unexpected results achieved by the presently claimed subject matter is the exceptionally soft and moist feel that is achieved when compositions meeting these requirements are used. Such unexpected results are demonstrated by the comparative data provided in Table 1 of the present specification. Another unexpected result flowing from the present invention is the ability to achieve such a desirable level of softness and moist feel without the presence of an ingredient that according to the prior art was "essential" for such a product. In other words, as demonstrated by the data provided in Table 1 in the present specification, highly advantageous and unexpected results are achieved without the presence of the "essential" saturated linear fatty alcohols specified in de Haut. Applicants respectfully submit that discovery of a formulation which eliminates, that is, does not require, the presence of an ingredient which is identified in the prior art as being "essential" while at the same time retaining (or in this case, improving) the function of such an ingredient is a strong indicia of nonobviousness.

Moreover, the weight range of other components required by the claims as now amended are dramatically different than those specified by de Haut. For example in the present claims the wax ester component is present in the emulsion the range of from about 70% to about 80%, which is well outside the range of de Haut's 1-50%.

The Examiner has reiterated his opinion that the semi-open transitional phrase "consisting essentially of" still allows the use of the saturated fatty alcohols of de Haut, because such saturated fatty alcohols "would not materially change the composition" and, therefore, the cited reference still reads on the claims (Office action, page 4, middle). However, as discussed in detail above, it is respectfully pointed out that the fatty alcohol is considered by de Haut to be an "essential" component of the disclosed composition, and in preferred embodiments comprises 35-90% by weight of the active substances. Thus,

applicants discovery has produced a result which provides highly advantageous results while eliminating the need for an "essential" component that is preferably included in an amount of up to 90% by weight of the active substances. Such a major component, comprising from more than one third to 90% of the composition, must have considered by de Haut to have a substantial and critical impact on both the emulsions formed therefrom, and the articles in which they are incorporated; otherwise de Haut would not have desired the presence of so much of this material and characterized it as being "essential" to his composition.

### **Conclusion**

In summary, in view of the present claim amendments and remarks, applicants believe that the pending claims as amended are in condition for allowance. The Examiner is respectfully requested to reconsider, withdraw the rejections and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

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